

Remarks

Applicants make no amendments in response to the Office Action dated February 25, 2005 since they firmly believe that the invention as presently defined in the claims is patentably distinct from the prior art references cited by the Examiner.

Claims 1 to 84 stand rejected under 35 USC §103(a) as being unpatentable over Ramakrishnan (US Patent No. 6,167,029) in view of Klish (US Patent No. 6,014,708). Applicants respectfully traverse this rejection for the following reasons:-

The Examiner has failed to establish a prima facie case of obviousness. To establish a prima facie case of obviousness, three basic criteria must be met - see MPEP section 2142. Firstly, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify a reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Furthermore, the reasonable expectation of success must be found in the prior art, and not based on applicants' disclosure (In re Vaeck, 947 F.2d488, 20 USPQ2d1438 (Fed. Cir. 1991). Thirdly, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

In the present case, the Examiner concedes that Ramakrishnan does not disclose that frame based data are transmitted over a synchronous digital network. However, the Examiner alleges that "it would have been obvious to one having ordinary skill in the art at the time the invention was made to include the adaptors [of Klish] in Ramakrishnan's system, as suggested by Klish, to map Ethernet data to SONET/SDH frames for transmissions over synchronous networks since SONET/SDH networks carry data at higher data rates". Applicants have found no teaching in Klish which would suggest including the Fast Ethernet to SONET/SDH adaptors of Klish in the local area network (LAN) flow control system of

Ramakrishnan. Klish is entirely silent on the topic of flow control. This is to be expected since Klish is entirely silent about the types of network arrangement in which its Fast Ethernet to SONET/SDH adaptors might be used. Moreover, Klish is principally directed to providing a Fast Ethernet (at 150 Mbps rather than 100 Mbps) which is better suited to the data rates of SONET/SDH payloads. Thus, Klish envisages that Ethernet data at its maximum input rate would exactly match the capacity of the SONET/SDH payloads. Thus, there would be no need for flow control.

Conversely, although the Examiner has not made this argument, there is no teaching in Ramakrishnan to suggest that its system of flow control be extended from the LAN to the context of wide area networks (WANs) such as SONET/SDH networks.

In conclusion, the Examiner has failed to establish that there is any suggestion or motivation to combine the teachings of Ramakrishnan and Klish.

Applicants cannot understand the relevance of the Examiner's assertion that "SONET/SDH networks carry data at higher data rates".

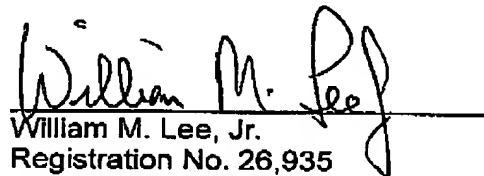
The Examiner has also failed to show that there is a reasonable expectation of success shown in the prior art. In the absence of any suggestion or motivation in Klish to address flow control issues, and in the absence of any suggestion or motivation in Ramakrishnan to adapt Ethernet data for transmission over SONET/SDH networks, there can be no reasonable expectation of success. Ramakrishnan only discloses flow control in respect of Ethernet networks using conventional Ethernet data rates (100 Mbps, 1 Gbps) whereas Klish is directed to non-convention Fast Ethernet at 150 Mbps. Even if one skilled in the art were motivated to combine the references, which is denied, there would be no expectation of success since the data rates are mismatched.

Regarding the requirements that the references when combined must teach or suggest all of the claim limitations, applicants have not conducted an exhaustive analysis of the Examiner's arguments concerning the Ramakrishnan and Klish references at this stage since they do not believe the Examiner has raised a prima facie case of obviousness. However, applicants make no admissions in respect of the alleged teachings of each of the references cited and reserve the right to respond on this issue if the Examiner continues to maintain the allegation of obviousness.

In summary, applicants believe that the Examiner has indulged in a clear cut case of impermissible hindsight reasoning and request that the present application be allowed forthwith.

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Respectfully submitted,



William M. Lee, Jr.
Registration No. 26,935
Barnes & Thornburg LLP
P.O. Box 2786
Chicago, Illinois 60690-2786
(312) 214-4800
(312) 759-5646 (fax)

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